REMARKS

Claims 1, 16, 17, 31, 38, 39, 44, 50, 59, 69, 70, 80 and 83 have been amended. No claims have been added or cancelled. Claims 1-24, 26-40, 44-75, 77-84 and 87 are pending in the application. Reconsideration is respectfully requested in light of the following comments.

Finality of Current Action:

Applicant objects to the finality of the current Office Action. In the Office Action of September 12, 2005, claims 44 – 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Erickson et al. (U.S. Patent 6,412,009) and Cunningham et al. (U.S. Patent 6,754,621). Claims 44 - 51 were not amended in any way in Applicant's response to the Office Action of September 12, 2005. In the current Office Action of February 16, 2006, claims 44 - 51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Erickson et al. (U.S. Patent 6,412,009) and Cunningham et al. (U.S. Patent 6,754,621), in further view of AAPA, thus comprising a **new ground of rejection not required due to any amendment by Applicant**. The finality of the current Office Action is improper in view of the new ground of rejection applied to claims 44 – 51. Applicant respectfully requests removal of the finality the current Office Action.

Section 103(a) Rejection:

The Examiner rejected claims 1-16, 20-24, 26-38, 40, 44-49, 51-69, 73-75, 77-82, 84 and 87 under 35 U.S.C. § 103(a) as being unpatentable over Erickson, et al. (U.S. Patent 6,412,009) (hereinafter "Erickson") and Cunningham et al. (U.S. Patent 6,754,621) (hereinafter "Cunningham"), in further view of AAPA. Applicant respectfully traverses this rejection for at least the reasons presented below.

Applicants have amended claims 1, 31, 44, 59 and 80 to include the subject matter from claims 17, 39, 50, 70 and 83, respectively, which the Examiner indicated would be

allowable if presented in independent form. Applicants have amended claims 1, 31, 44, 59 and 80 to recite (in part) an acknowledgement transport protocol packet including information indicating available space in a receive buffer on the second node. The Examiner's combination of Erickson, Cunningham and AAPA does not teach or suggest an acknowledgement transport protocol packet including information indicating available space in a receive buffer on the second node. Thus, Applicants submit that claims 1, 31, 44, 59 and 80 and their respective dependent claims are in condition for allowance.

Regarding claim 2, contrary to the Examiner's assertion, the combination of Erickson, Cunningham and AAPA does not teach or suggest storing the messaging system message in a transmit buffer on the first node after generating the messaging system message on the first node. The Examiner asserts that storing the messaging system message in a transmit buffer is inherently disclosed by Erickson and Cunningham because "output buffering data is required for buffering between processor and network transport mechanism in order to prevent sluggishness" and bottleneck problems. However, the Examiner's interpretation is incorrect. Claim 2 does not recite storing the one or more transport protocol packets that are transmitted to the second node via the transport protocol tunnel connection. Instead, claim 2 recites storing the *messaging system message* in a transmit buffer on the first node. Claim 1, from which claim 2 depends, recites (in part) that each transport protocol packet includes at least a part of the messaging system message. Thus, claim 2 recites the storing, in a transmit buffer, the messaging system messages that is contained in the one or more transport protocol packets. The normal output buffering to which the Examiner is referring would correspond to the storing of the transport protocol packets, not the storing of the messaging system message.

Erickson, Cunningham and AAPA, whether considered singly or in any combination, teach or suggest storing the messaging system message in a transmit buffer on the first node. Thus, the rejection of claim 2 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claims 18, 39, 60, 71 and 83.

Regarding claim 8, Erickson, Cunningham and AAPA fails to teach or suggest where the first node is a client in the messaging system and wherein the second node is a broker in the messaging system. The Examiner fails to cite any portion of the prior art regarding claim 8. Instead, the Examiner rejects claims 5-8 together, asserting "Erickson-Cunningham discloses the transport protocol tunnel connection passes through at least one firewall, citing the front page of Erickson. However, Erickson's teachings regarding the transport protocol tunnel connection passing through a firewall does not have any relevance to whether or not the second node is a broker in the messaging system. Nowhere does Erickson mention anything about his server 120, which the Examiner equates to the second node of Applicants' claim, being a broker in the messaging system. Cunningham also fails to mention anything about the second node being a broker. Moreover, the combination of Erickson, Cunningham and AAPA fails to teach or suggest anything about the second node being a broker in the messaging system.

Thus, for at least the reasons above, the rejection of claim 8 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claims 34, 36, 45, 47, 48, 54, 64, and 82.

Regarding claim 9, Erickson, Cunningham and AAPA fails to teach or suggest wherein the transport protocol tunnel connection passes through a third node and wherein in transmitting the one or more transport packets to the second node, the method further comprises: transmitting the one or more transport packets to the third node; and the third node forwarding the one or more transport protocol packets to the second node. The Examiner contends that Erickson's server 120 can be considered the third node. However, in the rejection of claim 1, the Examiner contends that server 120 is the second node. The Examiner is improper changing his interpretation of Erickson. Moreover, the Examiner's interpretation of Erickson is incorrect. In the rejection of claim 9, the Examiner asserts that in Erickson, "messages [are] transmitted to and from either node 110 or 126, which at a given time interval could functional (sic) as a second node." The Examiner is incorrect. Claim 1, from which claim 1 depends, recites, in part, establishing

a transport protocol tunnel connection from a first node in a message system to a second node in the messaging system. In Erickson, the tunnel connection is only established between web client 126 and server 120 (Erickson, column 2, lines 40-59; column 6, lines 24-43). There is no tunnel connection between Erickson's server 120 and host system 110, contrary to the Examiner's contention. Thus, host system 110 cannot correspond to either the first or the second node of Applicants' claim.

For at least the reasons above, the rejection of claim 9 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claims 20, 21, 23, 26, 27, 65, 74, 75, and 77.

Regarding claim 15, Erickson, Cunningham and AAPA does not teach or suggest storing the messaging system message from the one or more transport protocol packets in a receive buffer on the second node. The Examiner, as in the rejection of claim 2, asserts that storing the messaging system message from the transport protocol packets in a receive buffer on the second node is inherent in the systems of Erickson and Cunningham because "output buffering data is required for buffering between processor and network transport mechanism in order to prevent sluggishness" and bottle-neck problems. However, as described above regarding claim 2, the normal data buffering can only corresponds to storing the transport protocol packets that are transmitted from the first node to the second node. The normal data buffering to which the Examiner is referring does not have any relevance to storing the messaging system message from the transport protocol packets

Moreover, the Examiner's argument regarding *output* buffering does not have any relevance to storing the messaging system message from the transport protocol packets in a receive buffer on the second node. Preventing bottlenecks when transmitting messages has no relevance to storing received messages.

Thus, for at least the reasons above, the rejection of claim 15 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claims 38, 50, 70, 83, and 84.

Allowable Subject Matter:

Claims 17-19, 39, 50, 70-72 and 83 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. As noted above, Applicants have amended claims 1, 31, 44, 59 and 80 to include subject matter from some of these claims.

Allowed Claims:

Claims 52-58 have been allowed.

CONCLUSION

Applicant submits the application is in condition for allowance, and prompt notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-91600/RCK.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

☐ Petition for Extension of Time

☐ Notice of Change of Address

☐ Other:

Respectfully submitted,

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Date: _____ April 17, 2006 _____

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